



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: October 11, 2006

REPORT NO.: 06-138

ATTENTION: Council President and City Council
Docket of October 16, 2006

SUBJECT: Appeal of Scripps Wisteria, Project 53037, Council District 5, Process 4

REFERENCE: Report to the Planning Commission No. PC-06-146 (Attachment 10).
Report to the Committee on Land Use and Housing No. 04-106
(Attachment 11).

OWNER/

APPLICANT: Western Pacific Housing (D.R. Horton),

REQUESTED ACTION: Approval of a mixed-use condominium development consisting of 114 residential units (including 12 affordable units) and 35,258 square feet of office space on a vacant 3.92 acre site located 9889 Erma Road, west of Scripps Ranch Boulevard, within the Scripps Miramar Ranch Community Plan area.

STAFF RECOMMENDATION:

1. **DENY THE APPEAL** and uphold the Planning Commission's decision to **CERTIFY** Mitigated Negative Declaration No. 53037 and **ADOPT** the Mitigation, Monitoring, and Reporting Program (MMRP); and
2. **DENY THE APPEAL** and uphold the Planning Commission's decision to **APPROVE** Vesting Tentative Map No. 178023; and
3. **DENY THE APPEAL** and uphold the Planning Commission's decision to **APPROVE** Site Development Permit No. 153465.

SUMMARY:

Project Description:

The project proposes a mixed-use residential and office condominium development on a vacant 3.92 acre site located at 9889 Erma Road (Attachment 1). The proposed development includes 114 residential units including 3 shopkeeper units and 12 affordable units to be sold at prices affordable to households earning no more than 100% Area Median Income (AMI), and 35,258 square feet of commercial use.

The project also includes a community room, exercise room, pool, spa and common outdoor open space with barbeques, fire pits and water features. Parking for the commercial office building will be provided in a 2-story parking garage; for the residential uses in a subterranean parking garage, with one level above grade.

Development of the proposed project requires the approval of a Process 4 Vesting Tentative Map for the creation of condominium units (114 residential, 30 office), and a Site Development permit to 1) deviate from the development regulations for building height and residential uses on the ground floor within the front 50% of the lot, and 2) to allow private storm drain lines in Erma Road, where the applicant is not the record owner of the property on which the encroachment will be located.

Planning Commission Decision:

On June 22, 2006 the Planning Commission voted 4-2-1 (with Commissioners Chase and Garcia voting nay and Commissioner Steele recusing) to approve the project, with a recommendation that the City's Traffic Operations Section evaluate the ten "Operational Traffic Improvements" presented to the developer by the Scripps Ranch Planning Group, specifically items 6, 7, 8 and 9. Each of the ten items has been evaluated by staff (see Attachment 12).

During public testimony for the project, the Scripps Ranch Community Planning Group and the Miramar Ranch North Planning Committee spoke in opposition to the project. Their belief is that the traffic study did not use realistic numbers, resulting in a staff determination that no significant traffic impacts would occur. Neither group had an issue with the project itself, but both felt that the Traffic Study should have resulted in traffic mitigation. An alternative traffic analysis was not provided by either planning group.

Appeal:

An appeal application (Attachment 5) was received from Craig Jones filing for the Scripps Ranch Community Planning Group on July 7, 2006. The reasons for the appeal were listed as Factual Error, Findings Not Supported, and New Information.

Appellant Issue No.1: The Planning Commission erred in certifying the Mitigated Negative Declaration based upon an incomplete and inadequate traffic impact assessment which fails to identify the potential for significant negative traffic impacts. The Traffic Impact Study Manual does not contain the traffic impact significance threshold referenced on page 4 of the Initial Study. The Manual does state "if a proposed project's impact exceeds the values shown in the table, then the impacts are deemed 'significant.' The project applicant shall identify 'feasible mitigations' to bring the facility back to the level previously held by the facility prior to the project's impact." Per the appellant, if there are no feasible traffic mitigation measures, then the size of the project should be reduced pursuant to CEQA Guidelines Section 15370(b). Otherwise, a reasonable argument could be made that there is a significant unmitigated impact and an EIR should be prepared.

Staff Response Issue No. 1: A traffic study was prepared by Katz, Okitsu, and Associates dated February 2006 (Attachment 13). The traffic study found that all the intersections would operate at an acceptable level of service during the AM and PM peak hour in the near-term and horizon year with and without the proposed project. Mira Mesa Boulevard from I-15 to Scripps Ranch Boulevard is constructed as a six-lane major street and conforms to the community plan ultimate classification.

Roadway segments are analyzed by calculating the percent increase in volume to capacity (V/C) with the addition of project traffic. If the segment is calculated to operate at LOS E or F and the increase in V/C is greater than .02, at LOS D or at LOS F, then the project is considered to have a potential significant impact. Such a significant impact would not require mitigation if 1) the roadway segment is built to its ultimate roadway classification, 2) the intersections at the ends and along the segment are operating at acceptable LOS, and 3) an arterial analysis for the same segment is calculated to operate at acceptable LOS. If all three of these criteria are met, then no mitigation is necessary due to the acceptable intersection and arterial LOS. Arterial segments are determined to be significantly impacted when the calculated speed decrease due to the project is greater than 1 MPH under LOS E or F conditions.

The average daily traffic analysis is a general planning guideline and the peak hour arterial operational analysis represents the actual traffic condition of the roadway segment. Therefore, the project related traffic impacts for the Mira Mesa Boulevard segment from I-15 to Scripps Ranch Boulevard would not require mitigation.

Appellant Issue No. 2: A May 13, 2004 City Manager's Report to the Committee on Land Use and Housing (Report 04-106) introduced a revised threshold for traffic impacts based on court rulings, and recommended that the City Council approve revisions to the Significance Determination Guidelines. This revised threshold further establishes the potential for significant negative traffic impacts from the proposed Wisteria project.

Staff Response Issue No. 2: The referenced traffic impact threshold revisions were recommended by staff in 2004 as revisions to the current thresholds. The thresholds were circulated for public review, discussed with various stakeholder groups, and evaluated at three Planning Commission sessions and one Land Use and Housing Committee meeting. The Planning Commission and Land Use and Housing Committee members endorsed the revisions to the traffic thresholds. However, because the changes are substantial and will have regional significance, the threshold has not been implemented yet. San Diego County is in the process of a similar revision, and it is staff's intention to coordinate the implementation of both jurisdictions revised traffic thresholds.

Appeal Litigation:

On July 14, 2006, Western Pacific Housing Inc. filed a Petition for Writ of Mandate with the Superior Court of California, San Diego County, requesting that the court direct the City to reject the appeal application filed by Real Party-in-Interest, Scripps Ranch Community Planning Group, on the assertion that the planning group did not follow the

City's published rules and procedures for such appeals. On September 9, 2006, the Court issued a ruling that the Writ of Mandate be denied. Accordingly, the appeal may go forward.

Conclusion:

A traffic study was prepared by Katz, Okitsu, and Associates dated February 2006, using the City's current Traffic Impact Study Manual and the CEQA Significance Determination Guidelines. The traffic study found that all the intersections would operate at an acceptable level of service during the AM and PM peak hour in the near-term and horizon year with and without the proposed project. Mira Mesa Boulevard from I-15 to Scripps Ranch Boulevard is constructed as a six-lane major street and conforms to the community plan ultimate classification. The revised threshold for traffic impacts has not been implemented yet. The applicant's traffic engineer prepared the Traffic Study based upon the current manual and guidelines; therefore, staff recommends that the City Council deny the appeal and uphold the Planning Commission's decision to approve the project and certify the Mitigated Negative Declaration.

FISCAL CONSIDERATIONS: All costs associated with the processing of this project are paid from a deposit account maintained by the applicant, Western Pacific Housing (D.R. Horton).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: On March 2, 2006, the Scripps Ranch Community Planning Group voted 14-1-0 to recommend approval of the project on the condition that, after review of the traffic study, they believe the information in the traffic study to be correct. The traffic study was delivered to the Planning Group on April 6, 2006.

On May 4, 2006 the Scripps Ranch Planning Group voted (16-0-1) to recommend denial of the project based upon the belief that the traffic study did not use realistic numbers or factors and that the Miramar Ranch North Planning Committee was not afforded an adequate review of the project and traffic study.

On April 18, 2006, the adjacent community planning group (Miramar Ranch North Planning Committee) submitted a letter in response to the draft Mitigated Negative Declaration, critical of the traffic study. That letter and responses to the Planning Committee's comments are contained within the final Mitigated Negative Declaration No. 53037.

KEY STAKEHOLDERS (& Projected Impacts if applicable):

Western Pacific Housing (D.R. Horton), owner and applicant.

Kelly Broughton
Chief Deputy Director
Development Services Department

James T. Waring
Deputy Chief of Land Use and
Economic Development

ATTACHMENTS:

1. [Aerial Photograph](#)
2. [Community Plan Land Use Map](#)
3. [Location Map](#)
4. [Project Plans as Presented to the Planning Commission](#)
5. [Appeal Application](#)
6. [Draft Permit with Conditions](#)
7. [Draft Permit Resolution with Findings](#)
8. [Draft Environmental Resolution](#)
9. [Draft Tentative Map Resolution](#)
10. [Report to the Planning Commission No. PC-06-163](#)
11. [City Manager's Report to the Committee on Land Use and Housing \(Report 04-106\)](#)
12. [Wisteria Operational Traffic Improvements](#)
13. Traffic Study (not available on the web)